



STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
**Hoisting Machine Operators Advisory Board**  
830 Punchbowl Street  
Honolulu, Hawaii 96814  
PH: (808) 521-3019 Fax: (808) 585-0422

Board Members  
Tom Vendetta, Chair  
Roy Akamine  
Ernest Balatincz  
Ralph Cushnie  
Daniel Nelson  
  
Lora Contreras,  
Executive Director

**APPROVED 9-20-06**

Hoisting Machine Operator's Advisory Board Minutes  
Tuesday, July 19, 2006  
1:00 p.m.  
Department of Labor & Industrial Relations Office  
HIOSH Training Room  
830 Punchbowl Street #425  
Honolulu, Hawaii 96814

Members in Attendance: Daniel Nelson, Roy Akamine, Tom Vendetta, Ralph Cushnie and Lora Contreras, HMOAB.

Absent: Ernest Balatincz

Guest: AG Gerard Lam

Call to order: Quorum was met. The meeting was called to order by Chair Vendetta at 1:00 p.m.

Minutes of June 6, 2006.

Roy Akamine moved, seconded by Tom Vendetta to approve the June 6, 2006, minutes as circulated. Motion approved unanimously.

Community Concerns: None

**Director's Report:**

As of this date no crane accidents were reported to the department.

**Amendment to HMOAB Administrative Rules**

The board continued discussion on amendments approved at the prior HMOAB meeting with AG Lam present for clarification as follows:

§12-48-1 **Purpose.** This chapter implements section 396-19, Hawaii Revised Statutes, and promulgates rules for the certification of hoisting machine operators. The provisions of this chapter shall apply to any person who acts as a hoisting machine operator. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-2 **Scope.** Certification of hoisting machine operators is limited to operators of equipment covered by ASME B30.3 and ASME B30.5, with a lifting capacity of more than five tons and

used to perform construction work as defined by section 12-50-2, Hawaii Administrative Rules. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19) §12-48-3 Definitions. As used in this chapter:

“ASME B30.3” means ASME B30.3-1996, American Society of Mechanical Engineers Safety Standards.

"ASME B30.5" means ASME B30.5-2000, American Society of Mechanical Engineers Safety Standards, which also includes the Addenda ASME B30.5a-2002. "Board" means the hoisting machine operators' advisory board. "Certificate" means any hoisting machine operator certificate, special certificate, or renewal certificate issued by the director authorizing a person to operate a hoisting machine.

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“Certified operator” means a person with a current and valid certificate, special certificate, or renewal certificate issued by the director to operate a hoisting machine.

“Crane maintenance or inspection work” means work done on or with a hoisting machine solely for purposes of testing, repairing, maintaining, or assessing its operational performance, integrity, or safety.

“Department” means the department of labor and industrial relations, State of Hawaii.

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“Direct supervision” means a certified operator is personally instructing, overseeing, monitoring, and guiding a hoisting machine operator at the same work site as the operator and has actual and direct visual or voice contact with that operator. "Director" means the director of the department of labor and industrial relations or the director's designee. "DOT" means State of Hawaii, department of transportation.

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“Hoisting machine” means any equipment covered by ASME B30.3 and ASME B30.5 with a lifting capacity over five tons and used to perform construction work as defined by section 12-50-2, Hawaii Administrative Rules.

“Lattice boom crane” means a crane with a boom frame consisting of crossed structural members made from lightweight, thin wall, high strength alloy tubular or angle steel designed to take compression loads. "NCCCO" means National Commission for the Certification of Crane Operators.

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“Non-certified operator” means any person who operates a hoisting machine without a valid and current certificate issued by the director.

"State" means State of Hawaii.

“Tower crane” means a crane with a long horizontal boom, swinging jib, or other structural member mounted on a vertical mast or tower and/or as defined in ASME B30.3. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19) §12-48-4 Hoisting machine operators' advisory board. The board shall be composed of five members from both organized labor and management employers. The members are to serve without compensation and without reimbursement for expenses. Members shall be appointed by the governor and may adopt rules pursuant to chapter 91, Hawaii Revised Statutes, for carrying out the purposes of the hoisting machine operators' advisory board. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

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§12-48-5 Certificate required. (a) No person shall operate a hoisting machine covered by this chapter without a current certificate except as identified in this chapter. (b) Any person who operates a hoisting machine shall have and carry a current and valid certificate while operating a hoisting machine. (c) An operator must have a current physical examination certificate as required in section ~~12-48-6(b) at all times.~~ Such proof, must be submitted upon request to the director within two hours of request.

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(d) A certificate is not required for operator assistants, apprentices, oilers, assistants to the engineers, and trainees, provided they are under the direct supervision of a certified operator at all times while operating a hoisting machine and meet the training requirements of ASME B30.3 and ASME B30.5.

(e) A certificate is not required for a person performing crane maintenance or inspection work.  
[Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-6 Application process. (a) An applicant for a certificate shall be at least twenty-one years of age at the time of application and provide proof of age by submitting a valid original of any two of the following for the purpose of photocopying:

- (1) Birth certificate;
- (2) Driver's license;
- (3) Passport; or
- (4) Hawaii state ID.

(b) An applicant must have passed a physical examination that meets the requirements of ASME B30.3, Section 3-3.1.2 (b) and ASME B30.5, Section 5-3.1.2(a), and provide evidence of such examination by submitting a complete and current copy of one of the following:

- (1) NCCCO medical examiner's certificate; or
- (2) A DOT certificate of medical examination.

(c) At the time of application, an applicant must provide a current NCCCO certificate or an equivalent form of certification showing the applicant has hoisting machine operation experience as required for the NCCCO written exam. A copy of the NCCCO experience form is acceptable.

(d) Applications shall be submitted on forms provided by the director. A completed application shall consist of the form provided by the director that is completely answered by the applicant, an application fee, and all supporting documents required in subsections (a) through (c), unless an applicant is applying for a special certification, in which case section 12-48-7(b) applies in lieu of subsection (c). A completed application shall be submitted to the director.

(e) The director shall notify the applicant whether the application was approved or disapproved within sixty calendar days of receipt of a completed application. Approved applicants must submit the required certification fee within thirty calendar days of receiving notice of approval or must re-apply. The director shall issue the state hoisting machine operator certificate within thirty days of receipt of the certification fee.

(f) For initial applications only, a certificate shall be valid for the balance of any current NCCCO certification or other equivalent board-accepted certification plus the term of any approved

renewal NCCCO certification or its equivalent. An applicant must submit proof of such approved NCCCO certification or renewal or its equivalent at the time the application fee is submitted.

(g) A certificate to operate a tower crane will be issued to an approved applicant showing proof of having passed the written NCCCO tower crane examination or equivalent in combination with a letter of experience in operating a tower crane from the applicant's current employer; or to an approved applicant providing a current NCCCO certificate or equivalent for operating tower cranes.

[Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-7 Special certification. (a) A special certificate may be issued to an applicant who cannot meet the requirements identified in section 12-48-6(c), and the applicant works for only one employer and only operates hoisting machines identified by the applicant's current employer and specifically identified on the special certificate.

(b) At the time of application, the applicant's current employer must certify in writing to the director that it has provided operator training to the applicant that meets the training qualifications of ASME B30.3 and/or ASME B30.5 for the specific hoisting machine or machines identified in the application. The applicant must comply with sections 12-48-6(a), (b), and (d).

(c) A special certificate is valid for two years or until the person who has been issued the special certificate terminates employment with the employer, whichever comes sooner. A special certificate is not renewable and is valid for only those hoisting machines specifically identified on the certificate. A special certificate is nontransferable and shall be issued only once to an operator.

[Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19) §12-48-8 Renewals. (a) Applications to renew a certificate shall be made on forms provided by the director and must be submitted to the director with a nonrefundable renewal fee. Renewal applications must be submitted with the required documents and forms identified in sections 12-48-6(b) and (c).

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(b) An application for renewal must be filed with the director no later than ninety days after a current certificate expires. Renewals will be granted or denied within sixty days of receipt of a complete renewal application as defined in section 12-48-6 (d). An application for renewal filed more than ninety days after a current certificate expires, shall be considered a new application.

(c) A renewal certificate shall be valid for the balance of the NCCCO certification or other equivalent certification approved by the board, but shall not exceed five years. [Eff 12/6/02]

(Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19) §12-48-9 Denials, suspensions, and revocations. (a) The director may deny, suspend, or revoke a certificate or deny the issuance or renewal of a certificate for any of the following reasons:

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(1) A violation of ASME B30.3 or ASME B30.5;

(2) Non-compliance with an order of the director within the time specified in the order;

(3) Conviction of a crime directly related to the safe operation of a hoisting machine where an applicant or certified operator has not been sufficiently rehabilitated; (4) A mental or physical defect that causes an inability to safely operate a hoisting machine; (5) Providing false information or making any misrepresentation to obtain a certificate;

- (6) Habitual intoxication, addiction to or the unlawful use of narcotics, or the use of any drugs or medications that could impair an operator's ability to safely operate a hoisting machine;
- (7) An accident involving a hoisting machine operated by the person applying for or seeking to renew a certificate; or
- (8) For any other reason, which in the discretion of the director, would create a hazard or risk to persons or property.

(b) Operation of a hoisting machine in violation of ASME B30.3 or ASME B30.5, may result in the revocation of a certificate or the suspension of a certificate for not less than twenty-four hours but not more than one year.

(c) If the director finds an accident was caused by the actions or omissions of a certified operator and suspends or revokes the certified operator's certificate, the director may require the certified operator to retake and pass a certification examination before applying to have his or her certificate reinstated.

(d) A person whose certificate has been revoked may apply for certification not less than one year after the date of revocation. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-10 Appeals process. (a) Any denial, revocation, or suspension shall be final and conclusive against an applicant or certified operator unless a written notice of contest is filed with the director. The written notice of contest shall be an original, served on the director, and must be postmarked, or if not mailed, received and filed by the director within twenty calendar days of the denial, revocation, or suspension.

(b) The director shall hold a hearing within thirty calendar days after receiving a timely notice of contest. The hearing shall be de novo and all findings and conclusions by the director may be contested on the record only to the Hawaii labor relations board.

(c) The applicant or certified operator may request an informal conference to discuss a denial, revocation, or suspension, but an informal conference shall not suspend or change the twenty-day deadline for filing a notice of contest.

(d) A certified operator whose certificate is revoked shall, upon receiving notice of the revocation, immediately surrender the certificate to the department. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

§12-48-11 Fees. (a) An applicant shall submit a completed application to the director with a \$50 application fee.

(b) Upon receiving notice that an application has been approved, an applicant shall remit a \$500 certification fee to the director within thirty calendar days. For certification periods of less than five years, the certification fee for each year or portion of a year shall be \$100.

(c) Upon receiving notice that an application for a special certificate has been approved, an applicant shall remit a \$300 fee to the director within thirty calendar days. (d) Renewal applications shall be submitted to the director and accompanied with a renewal fee of \$500. (e) All application and certification fees shall be nonrefundable. [Eff 12/6/02] (Auth: HRS §396-4) (Imp: HRS §§396-4, 396-19)

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Discussion on certification for tower cranes were finalized to require a written letter of experience from the employer and NCCCO certification of a lattice or hydraulic or NCCCO tower crane certification.  
Amendments were approved unanimously.

AG Lam explained that HIOSH will create rules to enforce employers to use certified operators under the HMOAB admin rules or employers will be cited under HIOSH fines and citations rules.

Chair Vendetta asked AG Lam to further clarify with Mr. Hardway the board's next step in completing the process to implement the admin rules.

#### New Business: 2006-07 Budget

The 2006-2007 budget was approved by the board with a 3.5% pay increase.

HOISTING MACHINE OPERATORS' ADVISORY BOARD FISCAL 2006-2007BUDGET		
Approved July 19, 2006	Fiscal 2006-07	
	Act 165/98	

				Actual	7/19/06 Request	Justific
Personal Services (position count)						
Executive Director						
Other Personal Services						
Fringe Benefits (27.17%)					3.5% pay increase	(HGE#
					\$ 1,246.80	
		Subtotal:		\$36,872.00	\$ 36,871.80	
Other Current Expenses						
	2900	Services on a Fee		\$900.00	\$ 900.00	Traini
	3200	Office Supplies		\$ 800.00	\$ 800.00	Certifi
	3700	Postage		\$ 500.00	\$ 500.00	Mail
	3800	Telephone/fax/internet		\$ 1,200.00	\$ 1,200.00	Tele/F
	3900	Printing		\$ 800.00	\$ 800.00	Info/p
	4100	Mileage		\$ 500.00	\$ 500.00	Bd Is
	4200	Travel - Intra (6 trips @ \$112 x 6)		\$ 4,100.00	\$ 4,100.00	Bd Is
	4300	Per Diem - Intra (6 days @ \$40 x 6)		\$ 1,500.00	\$ 1,500.00	Bd Is
	4600	Car Rental - Intra (6 days @ \$35 x 3)		\$ 700.00	\$ 700.00	Bd Is
	4800	Other Travel - (excess lodge/taxi/air prkg)		\$ 800.00	\$ 800.00	Bd Is
	5820	Equipment Repairs		\$ 550.00	\$ 550.00	Comp
	5821	Equipment Maintenance Contracts		\$ 600.00	\$ 600.00	Comp
	7210	Training Costs		\$ 2,000.00	\$ 2,000.00	Crane
	7262	Miscellaneous		\$ 127.00	\$ 127.00	
	7800	Non-Capital Purchase of Equipment		\$ 2,000.00	\$ 2,000.00	Digita
		Subtotal:		\$17,077.00	\$ 17,077.00	
		Total Costs:		\$53,949.00		

Unfinished Business: None

Executive Session: None

Correspondence: None

Announcements: Next board meeting on September 20, 2006

Adjournment: Chair Vendetta adjourned the meeting at 3:22 p.m.

HANDOUTS: Copy of the letter to Mr. Robert Yoon dated June 19, 2006, from past Chair Allan Parker.